

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In re Applications of	)	MM DOCKET NO.	93-135
	)		
THE PETROLEUM V. NASBY CORPORATION	)	File No.	BRH-890601VB
	)		
For renewal of Station WSWR(FM)	)		
Shelby, Ohio	)		
	)		
THE PETROLEUM V. NASBY CORPORATION	)	File Nos.	BTCH-921019HX
	)	and	BTCH-921019HY
	)		
For transfer of control of	)		
Station WSWR(FM), Shelby, Ohio	)		

DIRECT WRITTEN EXHIBITS OF THE  
PETROLEUM V. NASBY CORPORATION

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November 23, 1993

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<u>Federal Communications Commission</u>	
Docket No. <u>93-135</u>	Exhibit No. <u>1</u>
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Reporter <u>BARBARA LORD</u>	
Date <u>12/14/98</u>	

TESTIMONY OF TIMOTHY J. MOORE

1. My name is Timothy J. Moore and I currently reside at 320 Willow Drive, Plymouth, Ohio 44865, approximately eight miles from Shelby, Ohio. Since November 1, 1988 I have been General Manager (first acting, then permanent) of Station WSWR(FM) ("WSWR"), Shelby, Ohio. Since March 15, 1989 I have also served as one of three members of the Board of Directors of The Petroleum V. Nasby Corporation ("Nasby"), licensee of WSWR, and as President and Treasurer. WSWR is a Class A (3 kilowatt) FM station licensed to Shelby, Ohio. Since June 1986, my spouse, Susan Diane Root Moore, and I, are custodians of 10 shares of Nasby stock for the benefit of Katharine C.R. Moore, UGMA. I also hold an option to acquire 50 shares of Nasby stock.

Background

2. I am 46 years of age and have resided in Shelby, Ohio (from 1979 until 1985), and since 1985, in Plymouth, Ohio. My spouse, a teacher at Willard High School, Willard, Ohio, and I, are the parents of two children, Katharine Christine Moore (age 7) and Elizabeth Josephine Moore (age 2). I received an honorable discharge from the United States Air Force Strategic Air Command during which I served a tour of duty in Vietnam. I hold a Bachelor of Science degree in Agricultural Economics from The Ohio State University ("OSU"), Columbus, Ohio. I am also a graduate of the Ohio L.E.A.D., a two-year program for agriculture at OSU. Prior to my position as General Manager of Nasby, I was hired in October

1983 as a farm broadcaster (with sales duties added later) by then General Manager David L. Williamson, to whom I reported to directly. I have also taught high school agri-business at the Pioneer Joint Vocational School in Shelby (1979-1984).

3. My community and civic activities individually, and in connection with WSWR over the years, have included: Immediate Past Trustee, Richland County Economic Development Corporation (which includes Shelby and Mansfield, Ohio); Immediate Past President, Ohio North Central Broadcasters (WSWR has been a member since 1981); Member, Board of Trustees, The Ohio Association of Broadcasters (OAB) (since 1990); Member, Huron County Tourism Committee; President, Plymouth Chamber of Commerce; Member, Citizens for Plymouth Revitalization; Member, Plymouth Historical Society; Co-Executive Director, The Miss Ohio Scholarship Program Radio Network; Active on behalf of WSWR with the Shelby, Willard and Mansfield, Ohio Chambers of Commerce and the Shelby Downtown Merchants Association. The station's program service and participation in the community has been recognized by the citizens of Shelby, Willard and other communities the station serves (See Appendices A and B (Declarations of Community Leaders and Letters from the Public)). WSWR has also received numerous awards for its program service including the Ohio Associated Press first place awards for best regularly scheduled newscast or outstanding news operation (for the years 1993, 1991, 1990, 1986) and for best regularly scheduled sports or outstanding sports operation (past three years).

Management and Operation of Station WSWR(FM)

4. As President and General Manager of WSWR, I have always exercised complete control over all facets of the day-to-day station operations, performed by me without any input from former board member Thomas L. Root (who resigned as an officer and director of Nasby on March 21, 1990) (including during the time period subsequent to Thomas L. Root's resignations from Nasby and his incarceration in a federal prison in June 1992), or from any of the other members of the three-person board with whom I have served (Emma D. Slone, Joanne L. Root and James Kehoe). I am solely responsible for the establishment and implementation of employment policies and practices of WSWR. With the exception of Nasby Vice President and Willard Station Manager Michael J. Adelman, and Marty Sowers, both employees of WSWR since 1981, I have hired directly (or in certain instances have approved the hiring of salespersons initially selected by the station's sales manager) and/or terminated (whether by voluntary resignation or dismissal) nearly 35 employees during my tenure as General Manager. All station employees report directly to me and I determine salaries for all station employees except my own salary which has been determined from time to time by the board of directors of Nasby.

5. Programming policy (including news/public affairs and entertainment programming) and commercial policy at WSWR has also been my sole responsibility, again implemented by me without any input from Thomas L. Root or any of the other members of the board with whom I have served. While I have not made any significant

changes in these station policies from my predecessor, David L. Williamson, I have evaluated the station's current format and decided on two occasions to negotiate and execute extensions of the Satellite Music Network ("SMN") contract for the provision of WSWR's *oldies* entertainment format.

6. As General Manager and President of Nasby I have had control over and access to the station's checking accounts, including check signing authorization. I have prepared and caused to be prepared all station financial records. I have caused to be prepared and prepared all station checks, which only I have signed. For a period of time from November 25, 1988 until September 7, 1993 (when in the course of the discovery phase in this proceeding I discovered that Thomas L. Root's name had not been removed from the bank signature cards by me at the time of Thomas L. Root's resignations as an officer and director of Nasby in March 1990), Thomas L. Root also had bank signature authority. He had previously been added to the bank signature cards in November 1988 in order to provide back-up signature authority to me as I was serving only as acting General Manager in November 1988 and had not been elected a director or officer of Nasby as yet. It was at this time that I assisted Thomas L. Root who was an officer and member of the Nasby board in negotiations for necessary station loan refinancing with WSWR's local Shelby bank. Thomas L. Root as Secretary of Nasby signed the loan financing documents at this time on behalf of Nasby and was required to provide a personal guarantee. Subsequent to the November 1988 loan refinancing, I

have been solely responsible for the loan financing for WSWR, including refinancing undertaken by me in July 1992, wherein I have exclusively provided the bank with a personal guarantee in the event Nasby is unable to repay the loan. Upon my learning that Thomas L. Root's name remained on the bank signature cards, I immediately caused his name to be removed from the signature cards. During my entire tenure as President and a director of Nasby, and as General Manager, Thomas L. Root has not signed any WSWR checks.

Board of Directors/Shareholders' Meetings

7. As I have previously testified, since March 15, 1989, I was one of three members elected to the Nasby board of directors and I have served since that date as President and Treasurer of Nasby. Shareholder meetings and directors meetings have been held annually each May in accordance with the bylaws of Nasby. During my tenure as President and as a member of the Board, I have presided over all the director and shareholder meetings held, making available a financial report to all shareholders. The meetings are routine; corporate officers and directors are reelected and from time to time my salary as General Manager has been determined by the board. In 1989 Thomas L. Root attended the annual shareholders and board meetings (as he was both a shareholder and director) and had previously been responsible as the station's corporate attorney for the preparation of meeting notices and minutes and maintenance of the corporate book. This included handling the preemptive rights stock transactions, and the stock transactions which are the subject of the pending initial



transfer of control application. While I was requested to and did sign stock certificates relative to these transactions as President of Nasby, I was not advised by Thomas L. Root that prior FCC approval should be obtained in connection with the transactions. Again, the corporate and FCC matters were routinely handled by Thomas L. Root on behalf of Nasby. It was not until current Nasby communications counsel informed me in the fall of 1992 that the cumulative stock transactions may have required prior FCC approval.

8. Following Thomas L. Root's resignation as an officer and director of Nasby in March 1990, Thomas L. Root did not attend nor participate in any way, in any corporate meetings of Nasby. Since 1990 I have prepared and caused to be prepared all meeting notices and minutes of Nasby and have otherwise maintained the corporate record book upon its return to me from Thomas L. Root following his resignation in April 1990 as the station's legal and FCC counsel.

Station Contact with Thomas L. Root

9. As General Manager of WSWR, I would from time to time consult with Thomas L. Root concerning FCC legal and corporate matters. Typically these conversations centered on questions I may have had on contest and lottery questions and political advertising. At most, (and I believe it was a lot less), I may have spoken by telephone to Thomas L. Root once a month. Thomas L. Root typically handled the filing of the station's ownership reports as well as the preparation of the station's first renewal application which he filed on June 1, 1989. In March 1990 I received a letter of resignation from Thomas L. Root which stated

that he was resigning as an officer and director of Nasby. No reasons for Thomas L. Root's resignations were given in his March 1990 letter. I do not recall specifically speaking with Tom at this time as to why he was resigning from his corporate positions. Later, in April 1990, when Thomas L. Root resigned as legal counsel for WSWR, I recall that Thomas L. Root was experiencing personal legal and possibly financial problems stemming from the airplane crash which he had survived months earlier. I felt that his resignation as legal counsel at this time was done to shield the station and its image in the community from any negative impact of his personal and legal financial problems, which again I believed related to events surrounding the airplane crash. I was not informed nor made aware by Thomas L. Root during this time period that his legal problems would have a potentially negative impact upon Nasby and WSWR before the FCC. I had no knowledge of any criminal investigation of Thomas L. Root nor did Thomas L. Root ever inform me or the other Nasby officer or board members that he was under investigation by any federal or state authorities. I recall that like other media outlets, WSWR reported on the airplane crash. Through those reports I recall there was speculation that the FAA may look into the airplane crash.

10. Subsequent to his resignation as legal counsel for Nasby in April 1990, I did receive a letter from the FCC in May 1990, rescinding the station's license renewal which had previously been granted. While Thomas L. Root was no longer FCC counsel for WSWR, I was quite surprised by the letter, which also did not state any

reason for the FCC's action taken, and I contacted Thomas L. Root. Thomas L. Root informed me that he had no idea why the FCC rescinded the station's license renewal grant. As a concluding item Thomas L. Root reminded me of the need to file an annual ownership report in June 1990 and he assisted in the preparation of the report which I filed. I subsequently secured new legal counsel and was made aware for the first time of the FCC's apparent concerns involving Thomas L. Root and the potential effect those concerns could have on the station's license renewal.

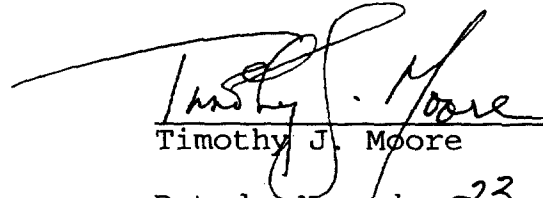
Mitigating Factors

11. As previously testified, Thomas L. Root had no involvement in the day-to-day management, operation and control of WSWR; such management, operation and control rests with me, the on-site General Manager of WSWR. The station's conduct as well as my own individual conduct was not connected in any way with the matters for which Thomas L. Root was convicted, nor for which the station and I had any prior knowledge. Moreover, as of March 21, 1990, Thomas L. Root was no longer an officer, shareholder or director of Nasby and therefore had no "ownership" relationship with Nasby at the time he was first convicted of his exclusive misconduct in January 1992. For several years Nasby and station management reasonably relied upon Thomas L. Root to handle corporate and communications legal matters, for which these matters were routinely handled by Thomas L. Root through services he provided from his Washington, D.C. law offices. I had no reason to suspect nor could I have suspected or known that Thomas L. Root's

conduct in matters wholly unrelated to Nasby and WSWR, for which I had no prior knowledge, would at a future date be sought by the FCC to be imputed to the detriment of Nasby.

12. Moreover, WSWR continues to provide a "true" local service in the communities it serves even where Nasby has not enjoyed financial success in its operations from the beginning (see Appendix C for unaudited station income and balance statements and related cash flow information from 1981 through the third quarter of 1993) prepared by the station's accountant). In my opinion the station should not be punished for the unrelated conduct of Thomas L. Root nor for the station's reliance on his services relative to FCC legal and corporate matters. Any fine imposed by the FCC even nominal would have a devastating effect on WSWR's ability to continue its operations. The station's license renewal should be granted as the FCC's processes have been preserved by the extremely public criminal prosecution and incarceration of Thomas L. Root. The innocent Nasby shareholders, officers and directors as well as the station's employees and the community-at-large, should not be further punished for the misconduct engaged in by Thomas L. Root outside their respective knowledge and control.

The foregoing testimony is made under penalty of perjury and is true and correct to the best of my knowledge.

  
Timothy J. Moore  
Dated: November 23, 1993

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Docket No. <u>93-135</u>	Exhibit No. <u>2</u>
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Reporter <u>BARBARA LORD</u>	
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TESTIMONY OF DAVID L. WILLIAMSON

1. My name is David L. Williamson and I currently reside at 7683 Boundary Road, New Washington, Ohio 44854, approximately 17 miles from Shelby, Ohio. From prior to 1983 until my resignation on October 31, 1988, I was General Manager of Station WSWR(FM) ("WSWR"), Shelby, Ohio. From prior to 1983 until my resignations on March 15, 1989, I was one of three members of the Board of Directors of The Petroleum V. Nasby Corporation ("Nasby"), licensee of WSWR, and President and Treasurer of Nasby. I was also a shareholder of Nasby from prior to 1983 until May 1989. I currently serve as the fulltime President of the Shelby Chamber of Commerce, Shelby, Ohio.

Background

2. I am a 1973 graduate of Ball State University, Muncie, Indiana, where I received a Bachelor of Arts degree in Radio and Television (with a minor in Business). During college I served as Program Director of the college's 10 watt (later a 3 kilowatt) radio station, WBST(FM). Following graduation I was employed at various radio stations, including employment as News Director at an FM radio station in Rushville, Indiana (1973-76); Account Executive, at WYLD-AM-FM, New Orleans, LA (1976); Account Executive, at WMDH(FM), New Castle, IN (1976), from which I was promoted to Sales Manager and then General Manager at commonly-owned sister stations, WTIM(AM)-WEEE(FM), Taylorville, IL (December 1976 - July 1981).

3. In 1981 I was contacted in Illinois by Thomas L. Root who called me to see if I would be interested in constructing and managing WSWR. I was acquainted with Tom as our families belonged to the same church in Plymouth, Ohio and I was two years ahead of Tom in school, although we went to different high schools. Tom explained to me that the person who originally planned to serve as WSWR's general manager, Edward A. Hunter, could no longer commit to the responsibilities involved due to family health concerns. Tom apparently was aware of my radio background and thought that I may be interested in managing and operating a "locally-owned" radio station in my "hometown." At about this point in time I had planned on joining with another station employee in Taylorville to purchase the radio stations which I managed, however, the proposal fell through. As a result, the opportunity to move my family back home and start a new radio venture was very appealing to me. I agreed to join Nasby and I moved back to the Shelby area in July 1981 and started immediately working on getting the station's construction completed.

#### Construction of the Station

4. As President and General Manager I oversaw and fully participated in the construction of WSWR. In addition to my oversight of the construction crews for the installation of the broadcast tower and antenna, I directed and personally participated in the construction of the station's studios, right down to renovating and wiring the studio facilities. The station commenced program operations on December 20, 1981 and its station license



application was granted by the Federal Communications Commission ("FCC") on November 14, 1983.

Management and Operation of Station WSWR(FM)

5. Upon commencement of station operations, as President and General Manager, I had, and did exercise, complete control over all facets of the day-to-day station operations, without any input from Thomas L. Root and Emma D. Slone, the other members with whom I served on the Nasby board of directors. During my tenure as President and General Manager, I was solely responsible for the employment policies and practices of WSWR and throughout my tenure I hired and/or handled the termination (whether by voluntary resignation or dismissal) of nearly 60 employees. All employees reported directly to me as General Manager. The only employee I did not initially hire was Michael J. Adelman who had been hired as Sales Manager by board member Emma D. Slone at about the time I was approached to be the station's President and General Manager. I determined salaries for all station employees except my own salary which was determined from time to time by the board of directors.

6. Programming (both news and entertainment) policy and commercial policy at WSWR was also established by me as President and General Manager, again implemented without any input from the other members of the board. While I recall that a study had been commissioned in an effort to determine the station's initial format and that I may have consulted with Mike Adelman, then the Sales Manager of WSWR, it was my decision to go with a country format. In about 1983-1984 I made the decision to switch WSWR's format to

adult contemporary and in July 1986, I made the determination to change WSWR's entertainment programming to an *oldies* format to be delivered by the Satellite Music Network ("SMN"). The station's commercial policies had previously been established by me and I recall adjusting the station's commercial policy in 1986 in order to meet the contractual obligations entered into with SMN. I do not recall if I specifically informed the other board members of each of the format changes following their implementation. I do recall contacting Thomas L. Root in Washington, D.C. requesting that he, as WSWR's attorney, review the contract I negotiated with SMN. Following his legal review, I then executed the contract which I alone had negotiated with SMN. In keeping with the goal of providing the community with a "local voice" I placed a heavy emphasis on news policy especially where WSWR produced daily local newscasts. News policy was established by me, and implemented without any input from Thomas L. Root or Emma D. Slone.

7. From prior to 1983 until November 1988 when I resigned as General Manager of WSWR, I had complete control over, and access to, the station's checking accounts maintained with a local Shelby bank, for which I was the sole signatory on each of the accounts the station maintained. I caused to be prepared and signed all WSWR checks. I prepared and caused to be prepared all of the station's financial records, including authorizing the station's accountant to prepare monthly income statements. To the extent station financing was determined by the board to be needed due to insufficient cash flow generated by station revenues, I did from

time to time negotiate loan financing with the station's bank, for which I signed the loan documents as President of Nasby and was required by the bank to provide a personal guarantee. Thomas L. Root as Secretary of Nasby also signed the loan documents and provided his personal guarantee. My actions in obtaining loan financing were ratified by Nasby's board of directors.

8. In August 1988 WSWR was experiencing financial problems and I was faced with the prospect of WSWR being padlocked by the Internal Revenue Service ("IRS") for Nasby's nonpayment of trust withholding funds. Because I believed Nasby would need further bank loan financing in order to bring its account current with the IRS, I initially contacted fellow board member Thomas L. Root to inform him of the station's financial situation and the need to consider loan financing to resolve the financial burdens faced by WSWR. These burdens were further exacerbated by the imminent adverse action expected to be taken by the IRS against WSWR, for which I also sought, on behalf of Nasby, Thomas L. Root's legal counsel in handling the IRS matter. In the course of our telephone conversation Tom informed me that he had available to him the approximate \$40,000 necessary to bring Nasby's account current with the IRS which he could provide to Nasby, thereby obviating the need to seek outside bank financing. In light of Nasby's financial burdens which were not likely to be resolved in the near future, Tom proposed that the funds advanced by him to Nasby in order to settle the IRS matter be deemed a subscription for the purchase of the remaining 100 unissued shares of Nasby stock, rather than be

treated as a loan to Nasby. This proposal was presented to the shareholders at a special meeting held in March 1989 and was approved subject to the shareholders' exercise of their preemptive rights.

9. As President and General Manager of WSWR I also established and executed the business policies and practices of the station. If in the context of a business policy or practice FCC implications arose, I may have contacted Thomas L. Root as FCC counsel for guidance. About the only matter I can recall marginally related to station business policies for which I sought FCC legal counsel involved an FCC inquiry to determine whether WSWR would be required to afford "equal time" to an opponent of Michael J. Adelman's for Monroeville (Ohio) city council. As FCC legal counsel for WSWR, Thomas L. Root responded to the FCC's inquiry. The FCC ruled that WSWR was not required to provide "equal time" to Mike Adelman's opponent since Monroeville lies outside the 1 mV/m contour of WSWR.

Board of Directors/Shareholders' Meetings

10. As I have previously testified, from prior to 1983 until my resignations on March 15, 1989, I was one of three members elected to Nasby's board of directors and I also served as President and Treasurer of Nasby. Shareholder meetings and directors meetings were held annually each May in accordance with the bylaws of Nasby. I presided over all the director and shareholder meetings held while I was a member of the board of Nasby or was an officer of the corporation. The meetings were

informal and, in my opinion, were perfunctory -- that is -- we were required to hold them by the corporate bylaws and the shareholders who did attend were informed of the station's activities in the community. Elections to the board of directors were also conducted. The shareholders, however, typically did not take an active interest at the meetings. In my opinion this was primarily due to the fact that the shareholders were all local citizens interested in owning a radio station which provided a "local voice" in the community and they were already aware of the station's critical (though less than profitable) success in the community. Financial information concerning station operations was typically made available to the shareholders and Thomas L. Root was available to answer questions or explain any legal issues involving shareholder stock ownership or any FCC issues which might have arisen relative to their stock ownership. The board meetings were held following the shareholders' meetings and the meetings were typically used by us to discuss the station's financial status, to elect officers of Nasby, and from time to time, to set the General Manager's salary.

Station Contact with Thomas L. Root

11. Upon agreeing to become President and General Manager of the station in 1981 I spoke regularly with Thomas L. Root and Emma D. Slone, both of whom were directors of Nasby as was I, since they both had initially been involved in getting the group of local shareholders together to get the station started. As legal counsel Thomas L. Root had also been involved in reviewing contracts and

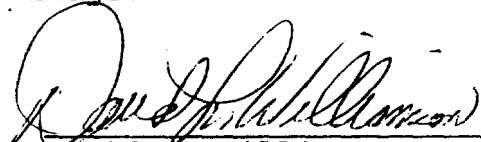
initial construction financing of the station at this time as well. Once operational, however, I initially spoke with Tom or Emma maybe once a month at the most. When I contacted Tom by telephone at his office in Washington, D.C. it was typically to consult with him as the station's FCC counsel, regarding questions that I may have had on such FCC matters as contests and lotteries or political advertising. From time to time I would speak to Tom relative to corporate matters such as when I was needed to sign stock certificates as President of Nasby. I did rely on Tom as the attorney for the station to represent the station before the FCC including when appropriate, the filing of ownership information and applications. As corporate counsel and Secretary of Nasby, Thomas L. Root was relied upon and did in fact maintain the corporate records of Nasby, which typically included his preparation and execution of shareholder/board meeting notices and minutes, he handled stock transactions of the corporation, and he executed loan documents. Thomas L. Root's service as corporate counsel and FCC counsel for Nasby, were conducted by him in a routine matter. I did not contact Thomas L. Root nor did he contact me for input relative to the day-to-day station management, operation and control of WSWR for which I was exclusively responsible.

Local Program Service

12. As President of the Shelby Chamber of Commerce I have worked with Timothy J. Moore, President and General Manager of Nasby, in connection with Chamber fundraising functions for which WSWR has provided sponsorship as well as other civic and charitable

functions in Shelby. When I directed WSWR station operations I endeavored to provide the communities of Shelby, Willard, Plymouth and the remaining communities in WSWR's service area, with programming designed to meet the needs and interests of the residents of these communities, including the provision of daily local newscasts, news coverage of the local schools in the area and coverage of issues of concern in the community (e.g., education issues). Under Tim Moore's direction, the station has continued to meet the needs of the community by its daily local newscasts and the airing of public service announcements, its support of education issues including the school levy, and its promotion of youth programs, both on-air and off-air. WSWR's "local" operation is an integral part of Shelby, Willard and Plymouth -- and no other station in the market comes close in matching the local program service provided by WSWR. I fully support the renewal of WSWR's license.

The foregoing testimony is made under penalty of perjury and is true and correct to the best of my knowledge.

  
David L. Williamson

Dated: November 23, 1993



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